



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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TRENTON, NJ 08625-0716

NATASHA JOHNSON
Assistant Commissioner

The following Decision is distributed for your information. This Decision has been made in consideration of the specific facts of this case. This Decision is not to be interpreted as establishing any new mandatory policy or procedure otherwise officially promulgated.

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW **10677-22 S.A.**

AGENCY DKT. NO. **C720916002 (BERGEN COUNTY BD. OF SOC. SVCS.)**

Petitioner Agency charges Respondent with committing an intentional program violation ("IPV") of the Supplemental Nutrition Assistance Program ("SNAP"). The Agency asserts that Respondent intentionally withheld information when applying for SNAP benefits, thus causing Respondent to receive an overissuance of benefits to which she was not entitled.

On August 2, 2022, Respondent applied for SNAP benefits. See Initial Decision at 2; see also Exhibit P-1 at 25-42. On September 9, 2022, pursuant to a referral to the Agency to verify if the father of Respondent's children lived in the same household, an investigator conducted a home visit to Respondent's home. See Exhibit P-1 at 2-3, 61. On that date, Respondent did not allow the investigator to enter the home, admitted that she owned a business that she ran out of the home, and that customers were in the home. Ibid. On September 12, 2022, the Agency conducted another home visit to Respondent's home. Ibid. Again, the investigator was not allowed to enter the home. Ibid. On that same date, Respondent requested that the Agency close her SNAP case, as she did not want the father of her children to discover that she had been receiving SNAP benefits. Ibid. Respondent was then advised that a Waiver of Right to Administrative Disqualification Hearing ("Waiver"), accepting the penalty of a 12-month disqualification period from receipt of SNAP benefits for failing to disclose that she owned and operated a business, would be sent to her, and that she could sign the Waiver and accept the penalty, or request an Administrative Disqualification Hearing ("ADH"). Ibid.; see also N.J.A.C. 10:87-11.2(e), -11.6(a)(2). A Waiver was sent to Respondent, and Respondent executed the Waiver on September 26, 2022. See Initial Decision at 2; see also Exhibit P-1 at 4-5. Respondent's executed Waiver was received by the Agency on October 24, 2022, which is beyond the required time frame as noted in the Waiver. Ibid.; see also N.J.A.C. 10:87-11.6(a)(1), (2). Because Respondent did not timely waive her right to a hearing, the Agency then notified Respondent on October 17, 2022, via certified mail, return receipt requested, that she was scheduled to appear for an ADH on December 15, 2022. See Initial Decision at 2; see also Exhibit P-1 at 7-8, 9, 10, 11. On December 15, 2022, the Honorable Thomas M. Betancourt, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. Respondent did not appear, and the record then closed on that date.



On December 16, 2022, the ALJ issued an Initial Decision, which found that the Agency had met its burden in establishing, by clear and convincing evidence, that Respondent had deliberately and intentionally misrepresented information to the Agency, which resulted in Respondent receiving an overissuance of SNAP benefits, to which she was not entitled. See Initial Decision at 8. Specifically, the ALJ found that Respondent intentionally withheld information that she was operating a business, which prevented the Agency from making a proper eligibility determination for SNAP benefits. Ibid.; see also Exhibit P-1 at 12-18, 25-42; and N.J.A.C. 10:87-11.3(a)(1), (2). I agree with the ALJ's finding.

Based upon the ALJ's finding that Respondent had committed an IPV, thereby warranting disqualification from the receipt of SNAP benefits, the ALJ ordered the mandatory regulatory penalty of a 12-month disqualification from receipt of SNAP benefits, pursuant to N.J.A.C. 10:87-11.2(a)(1). See Initial Decision at 8-9. I also agree.

Notably, in this present matter, the Agency is not seeking to recoup any amount of overissued SNAP benefits received by Respondent at this time. The Agency is without prejudice to seek recovery of any overpayment of SNAP benefits to Respondent in a later action.

No Exceptions to the Initial Decision were filed.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have considered the Initial Decision in this matter, and following an independent evaluation of the record, I concur with the ALJ's decision, and hereby adopt the Findings of Fact and Conclusion of Law in this matter.

Additionally, while I agree with the ALJ's conclusion, that Respondent committed an IPV, warranting a 12-month disqualification period from receipt of SNAP benefits, it should be noted that with respect to matters wherein IPV's are alleged to have been committed, the Agency is responsible for initiating an ADH. See N.J.A.C. 10:87-11.1. Accordingly, as the Agency is the party requesting relief in an IPV case, it is the "Petitioner." See N.J.A.C. 1:1.2.1, "Definitions." Conversely, the party responding to the Agency's request for relief in an IPV case is the "Respondent." Ibid. In the ALJ's Initial Decision, S.A., was incorrectly referred to as "Petitioner," when she was, in fact, the Respondent. The Agency was incorrectly referred to as "Respondent" throughout the Initial Decision, when it should have referred to as Petitioner. Therefore, the Initial Decision is modified so as to reflect the correct designation of the parties.

Accordingly, based upon the foregoing, I hereby MODIFY the Initial Decision in this matter, and ORDER that Respondent is hereby disqualified from the receipt of SNAP benefits for a period of 12 months.

Officially approved final version.

January 19, 2023

Natasha Johnson

Assistant Commissioner

